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10/762,374	01/23/2004	Sergey N. Razumov	59036-042	4464

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EXAMINER	
ALLEN, WILLIAM J	

ART UNIT	PAPER NUMBER
3625	

MAIL DATE	DELIVERY MODE
06/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/762,374	RAZUMOV, SERGEY N.	
	Examiner	Art Unit	
	William J. Allen	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 May 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12,15,16,18,19,21 and 23-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12, 15-16, 18-19, 21, and 23-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Prosecution History Summary

Claims 12-14, 17, 20, and 22 have been canceled.

Claims 23-25 have been added.

Claims 1-12, 15-16, 18-19, 21, and 23-25 are pending and rejected as set forth below.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/7/2007 has been entered.

Claim Objections

Claim 1 is objected to because of the following informalities: In line 6 of claim 1, the claim reads "...order can be filled **conducting** ~~an interactive~~....". The word "conducting" should also be struck through. Appropriate correction is required.

Response to Arguments

Applicant's arguments filed 5/7/2007 have been considered but are moot of the new ground(s) of rejection. Applicant's amendment has necessitated the new grounds of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-2, 7-8, 18-19, and 24-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Shelton (US 5345501).

Regarding claim 1, Shelton teaches a telephone switched based system comprising:

input telephone circuitry for receiving from a customer an incoming telephone call to place an order for a product from the retail system incoming (see at least: abstract, col. 3 lines 60-63, col. 4 lines 45-47, Fig. 1),

order processing circuitry for conducting an interactive session with the customer, the order processing circuitry being responsive to order information on the order received from the input telephone circuitry, for producing an order validation request to determine whether the order can be fulfilled (see at least: abstract, col. 2 lines 23-28, col. 4 lines 1-9, col. 5 lines 5-11, Fig. 1-3), and

control circuitry responsive to the order validation request from the order processing circuitry, for determining order confirmation information on the requested product and providing the order confirmation information to the order processing circuitry (see at least: abstract, col2. lines 23-28, col. 5 lines 11-18, Fig. 1 and 3(note #s 50 & 52)),

if the order confirmation information indicates that the order can be fulfilled, the order processing circuitry producing a first voice message indicating to the customer that the order can be fulfilled (see at least: col. 5 lines 15-18 and 60-61),

if the order confirmation information indicates that the order cannot be fulfilled, the order processing circuitry producing a second voice message indicating to the customer that the order cannot be fulfilled (see at least: col. 5 lines 15-128 and 60-61).

Regarding claims 2 and 7-8, Shelton teaches:

(2) *wherein in response to the order validation request from the order processing circuitry, the control circuitry is configured to provide the order processing circuitry with product availability information indicating whether the requested product is available in the retail system, before completing the interactive session* (see at least: abstract (note "vendor inventory"), col. 2 lines 6-9, col. 5 lines 15-18, Fig. 3(note #s 50 & 52)).

(7) *wherein the order processing circuitry is configured to process a customer's voice message associated with the request for an item being ordered* (see at least: abstract, col. 4 line 52-col. 5 line 18).

(8) *wherein the voice message identifies the requested item* (see at least: col. 5 lines 5-11 and 47-61).

Regarding claims 18-19, these claims closely parallel the limitations of claims 1-2 and 7-8 and are thereby rejected for at least the same rationale.

Regarding claims 24-25, the Examiner further notes, the phrases "*if the order for the product selected by the customer cannot be fulfilled ...*" and "*if the order for the product selected by the customer cannot be fulfilled in a time period requested by the customer...*" do not move to distinguish the claimed invention from the cited reference. These phrases are both conditional limitations, where the noted "if" steps are not necessarily performed. Accordingly, once the positively recited steps are satisfied, the method as a whole is satisfied -- regardless of whether or not other steps are conditionally invocable under certain other hypothetical scenarios.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 3, 9, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton in view of Adams et al (US 200210013519).

Regarding claims 3, 9, and 21, Shelton teaches all of the above as noted and further teaches tracking inventory and notifying a customer whether a product is in stock or out of stock at a particular location (see at least: abstract, Fig. 3, col. 5 lines 15-18). Shelton, however, does not expressly teach *sending a delivery availability request to determine whether the requested product is available for delivery during a time interval requested by the customer, and, responsive to the availability request provide availability information indicating whether the requested product is available for delivery during the time interval requested* nor does Shelton teach *wherein a voice message identifies the requested time of delivery.* In the field of call center interaction, Adams teaches a call center for requesting an item such as a medical testing device, with the call center able to accepting requests from members (see at least: 0014-0019, 0040, 0043-0045, 0054). Adams further teaches a patient or physician (the ordering person) specifying an arrival date (i.e. time interval). The system is able to check available inventory (i.e. whether the item is available immediately and available to be provided by the specified arrival date) and place the order on various queues according to the availability of the ordered device (see at least:

0059-0060). An acknowledgement is also provided of whether the device is available for delivery is also provided (see at least: 0033). Thereby, Adams teaches the aspects of *sending a delivery availability request to determine whether the requested product is available for delivery during a time interval requested by the customer; and, responsive to the availability request provide availability information indicating whether the requested product is available for delivery during the time interval requested* and *wherein a voice message identifies the requested time of delivery*. It would have been obvious to one of ordinary skill in the art at the time of invention to have included such aspects as taught by Adams in order to provide a system for secure home ordering wherein an acknowledgement of an order and estimation of delivery are provided to help ensure the orders are shipped to the proper location (see at least: Adams, 0026, 0033, 0049, 0056).

3. Claims 4-6, 10-12, and 15-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton in view of Barzilay (US 20030093334).

Regarding claim 4, Shelton teaches all of the above as noted and further provides an interactive voice response system for user selections and playback of automated messages. Shelton, however, does not expressly teach *wherein the order processing circuitry is configured to request delivery of the item to a point of sale selected by the customer.* In the same field of endeavor, Barzilay teaches a system for conducting e-commerce transactions utilizing telecommunication devices and a call in service (see at least: abstract, Fig. 1). More specifically, Barzilay teaches *wherein the order processing circuitry is configured to request delivery of the item to a point of sale selected by the customer* (see at least: 0003, 0035, 0047). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Shelton to have included *wherein the order processing circuitry is configured to request delivery of the item to a point of sale selected by the customer* as taught by Barzilay in order to provide a system that provides for conducting commerce over a telecommunications network in such a manner as to increase profits for sellers while reducing the overall costs for goods and services (see at least: Barzilay, 0012, 0014).

Regarding claims 5-6, 10-12, and 15-16, Shelton in view of Barzilay teaches:

(5) *wherein the order processing system is responsive to information identifying the customer for determining a customer's profile indicating preferences of the customer* (see at least: Barzilay, abstract, 0031, 0033, 0041, Fig. 3A).

(6) *wherein the customer's profile contain a customer's voice sample for recognizing voice messages received from the customer* (see at least: Barzilay, 0033, 0041, Fig. 3A).

(10) *wherein the voice message identifies a requested point of sale* (see at least: Barzilay, 0003, 0034-0035, 0047).

(11) *wherein the voice message identifies the customer* (see at least: Barzilay, 0033, 0041).

(12) *wherein the order processing circuitry is configured to produce a voice message providing the customer with information relating to the request for an item being ordered* (see at least: Barzilay, 0016, 0033, 0043).

(15) *wherein during the session with the customer, the control circuitry provides the processing circuitry with a customer's profile indicating preferences of the customer* (see at least: Barzilay, 0022, 0031, 0033, 0043).

(16) *wherein during the session with the customer, the control circuitry provides the processing circuitry with information on a point of sale selected by the customer* (see at least: Barzilay, 0033, 0037, 0047).

4. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton in view of Joseph (US 20030177069).

Regarding claim 23, Shelton teaches all of the above as noted and further provides an interactive voice response system for user selections and playback of automated messages. Though Shelton teaches processing circuitry configured to produce voice messages with pertinent information to the customer, Shelton does not expressly teach *if the order for the product selected by the customer cannot be fulfilled, determining an available product similar to the selected product* and providing information on that product to the customer. In the of electronic shopping, Joseph teaches an inventory display and sales system for the display of in-stock merchandise to a customer (see at least: abstract). Joseph specifically teaches determining *if the order for the product selected by the customer cannot be fulfilled* in determining that a product is out of stock. Additionally, the system of Joseph provides customers with products similar to the initially selected product (see at least: Fig. 3, 0010, 0031). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Shelton to have included where *if the order for the product selected by the customer cannot be fulfilled, determining an available product similar to the selected product* and providing information on that product to the customer as taught by Joseph in order to provide a system that facilitates actively notifying a customer of currently in-stock merchandise in order to enhance the immediate sale of retailer merchandise (see at least: Joseph, 0007-0010).

5. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton in view of Jenkins et al. (US 20020188499).

Regarding claim 24, Shelton teaches all of the above as noted and further provides an interactive voice response system for user selections and playback of automated messages. Though Shelton teaches processing circuitry configured to produce voice messages with pertinent information to the customer, Shelton does not expressly teach *if the order for the product selected by the customer cannot be fulfilled in a time period requested by the customer,* providing the customer *with alternative time information indicating an alternative time period when the order can be fulfilled.* In the same field of endeavor, Jenkins teaches a system and method allowing users to search for product availability throughout an entire supply (see at least: abstract). Additionally, Jenkins teaches where *if the order for the product selected by the customer cannot be fulfilled in a time period requested by the customer,* providing the customer *with alternative time information indicating an alternative time period when the order can be fulfilled* (see at least: claim 1 and 5, 0014, 0046, 0164). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Shelton to have included where *if the order for the product selected by the customer cannot be fulfilled in a time period requested by the customer,* providing the customer *with alternative time information indicating an alternative time period when the order can be fulfilled* as taught by Jenkins in order to provide a system that meets customer requirements while minimizing inventory and maximizing profits for a company (see at least: Jenkins, abstract).

6. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton in view of Official Notice.

Regarding claim 25, Shelton teaches all of the above including the recitation of various options with regards to possible user selections by an automated voice system and further facilitating user response utilizing speech recognition (see at least: col. 5 lines 5-9). As a result of the recognition of the user input, a specific procedure is performed to produce the desired results in accordance with the user selection. Though Shelton teaches such a feature, it is not clear that in Shelton that the order processing circuitry is configured to recognize a *pre-selected limited number of spoken words*. The Examiner takes Official Notice to recognize a *pre-selected limited number of spoken words*, and notes that it is old and well known in the art to provide such a feature in the field of speech/voice recognition technology. For example, many systems have specific responses such as "yes", "no", speaking a specific number, or speaking/repeating an option read out to the user by the IVR/VRU system pre-programmed for recognition in order to improve the accuracy of the recognition technology. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Shelton to have included recognition of a *pre-selected limited number of spoken words* as taught by Official Notice in order to provide improved machine-implemented voice interactive customer order processing system (see at least: Shelton, col. 2 lines 3-5).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 7027999 discloses a method and apparatus for forecasting item availability
- US 20030202640 discloses an adaptive voice recognition menu method and system
- US 6335964 discloses a voice processing system

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William J. Allen
Patent Examiner
June 18, 2007

Mark Fadok

Primary Examiner